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UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS

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RAJENDRA D. BADGAIYAN, M.D.,

Plaintiff,

v.

ANTHONY J. PRINCIPI, SECRETARY
DEPARTMENT OF VETERANS' AFFAIRS,
PRESIDENT AND FELLOWS OF
HARVARD COLLEGE, and
GRACE J. MUSHRUSH, M.D.,

Defendants.

* * * * *

Deposition of **GRACE J. MUSHRUSH, M.D.,**
taken on behalf of the Plaintiff, pursuant to
Notice under the applicable Rules of the
Massachusetts Rules of Civil Procedure, before
Rochelle D. Baron, a Professional Shorthand
Reporter and Notary Public in and for the
Commonwealth of Massachusetts, at the Offices of
Weston, Patrick, Willard & Redding, P.A.,
84 State Street, Boston, Massachusetts on Monday,
June 19, 2006, commencing at 10:15 a.m.

1 Dr. Alexander as being somewhat of a
2 concern to him?

3 A Being somewhat of?

4 Q Of a concern to him.

5 A No.

6 Q He said nothing to you about
7 Dr. Alexander, his reluctance to be
8 retested by Dr. Alexander?

9 A No, but I think I even told him that
10 it could be different examiners.

11 Q Can you explain in your own words the
12 affiliation that exists between the
13 Brockton V.A. and Harvard Medical
14 School?

15 A We have Harvard's name on our
16 residency training program and the
17 faculty have Harvard appointments.

18 Q Do you know what "ACGME" is an acronym
19 for?

20 A Yes.

21 Q What is that?

22 A Accreditation Council for Graduate
23 Medical Education.

24 Q And what role does the ACGME play in

1 marked as Exhibit No. 2?

2 [A copy of
3 Renewal
4 Application -
5 Limited License
6 was marked as
7 Mushrush Exhibit
8 No. 2 for
9 identification.]

10 Q Before I hand this to you, one other
11 quick question. Did you ever write to
12 Dr. Badgaiyan relative to his need to
13 retake the exam? Is there a letter or
14 e-mail to that effect if you know?

15 A I don't recall.

16 Q If you take a look at this doctor.
17 It's been marked as Exhibit No. 2.

18 [Witness looking at document.]

19 Q Do you recognize that document,
20 Dr. Mushrush?

21 A It's renewal application for a limited
22 license.

23 Q And what is the purpose of a renewal
24 application for limited license?

1 A A limited license is good only for one
2 year. So it has to be renewed every
3 year or a resident can't practice.

4 Q Is there any portion of this form that
5 you yourself filled in, Doctor?

6 A My signature.

7 Q What about the rest of Section B?

8 A Section B, yes -- well, there's a
9 checkmark and there's a date.

10 Q Did you check off no in response to
11 the question, has the physician been
12 subject to past or pending
13 disciplinary action in this program?

14 A Yes.

15 Q And what's the date of your signature?

16 A 2/14/02.

17 Q So that followed the July '01 e-mail
18 placing Raj on probation, am I
19 correct?

20 A Yes.

21 Q And was there a reason that you
22 checked "no" to past or pending
23 disciplinary action?

24 A Well, there are grades of disciplinary

1 action and not all of them get
2 reported to the board. You know,
3 there are only the very serious ones
4 get reported to the board. I didn't
5 consider his not having passed this
6 test as serious because there were a
7 number of people who hadn't passed it,
8 and I thought it was just -- it didn't
9 reflect -- it reflected more his
10 stubbornness and his attitude, and I
11 didn't think I wanted to at this point
12 make an issue with the board.

13 MR. BARRISON: Mark this as
14 Exhibit No. 3.

15 [A copy of
16 Renewal
17 Application -
18 Limited License
19 was marked as
20 Mushrush Exhibit
21 No. 3 for
22 identification.]

23 Q Would you take a moment to examine
24 what's been marked as Exhibit No. 3,

1 and then I'm going to ask you if you
2 recognize it?

3 [Witness looking at document.]

4 Q Do you recognize that document,
5 Dr. Mushrush?

6 A Yes. It's the same document a year
7 later.

8 Q A year later. And is it true as well
9 then for Section B that's your
10 signature, date, and a check in the
11 box where "no" to the question, has
12 the physician been subject to past or
13 pending disciplinary action in this
14 program?

15 A Yes.

16 Q And the reason that you checked "no,"
17 was that the same as you have
18 explained for the initial renewal?

19 A Yes.

20 Q Would you agree that being placed on
21 probation is a black mark on a
22 resident or fellow's training at the
23 Brockton V.A.?

24 A It depends on what kind of probation.

1 MR. BARRISON: Let me have
2 this marked. I think you're up to
3 No. 4.

4 [A copy of
5 Postgraduate
6 Verification Form -
7 Page 2 was marked
8 as Mushrush
9 Exhibit No. 4 for
10 identification.]

11 Q You wanted to add something to that
12 exhibit?

13 A I believe the second exhibit is after
14 he had done the extended training and
15 he was in his final year. And so he
16 had already made -- the training
17 committee had asked him to do extended
18 training of three months. And this
19 was after he had already done that.
20 So he was back, as far as I was
21 concerned, in good status.

22 MR. FARQUHAR: Could we just
23 have the record reflect that the
24 deponent was pointing to Exhibit.

1 No. 3?

2 MR. BARRISON: Certainly.

3 Thank you.

4 Q Doctor, this has been marked as
5 Exhibit No. 4, and would you take a
6 peek at that, please?

7 [Witness looking at document.]

8 Q Do you recognize Exhibit 4?

9 A Yes.

10 Q And what is it?

11 A It's part of an application for
12 something. It's part of his post-
13 graduation verification form from the
14 board.

15 Q Is that your signature that appears on
16 Page 1 at the bottom? Page 1, Doctor.

17 A You're referring to this as Page 1 --

18 Q Yes.

19 A -- because it's labeled Page 2? Yes.

20 Q And the date of your signature is
21 given there as well?

22 A 2/24/04.

23 Q So Dr. Badgaiyan would have finished
24 his training at the Brockton V.A. by

1 then, am I right?

2 A That's true.

3 Q And the second page, can you briefly
4 describe what Page 2 and 3 are of this
5 exhibit?

6 A It's an explanation to accompany the
7 form.

8 Q And that's your signature that appears
9 at the end of the letter?

10 A Right. I guess you had to -- you had
11 to explain anything that was labeled
12 "no." So these were referring to
13 those answers.

14 Q Specifically, it's referring, Doctor,
15 to Question No. 2 on the first page,
16 was the applicant ever placed on
17 probation where the box for yes is
18 checked off.

19 A Uh-huh.

20 Q Is that correct?

21 A Yes.

22 Q And you placed that checkmark under
23 yes, am I right?

24 A Yes -- wait a minute. Yes, okay.

1 attending, head nurses, and me." Did
2 I read your handwriting correctly?

3 A Yes.

4 Q Okay. Who were the women in authority
5 with whom you report some difficulties
6 with Raj?

7 A During his first year, he was on the
8 medical service and he had a woman
9 resident and a woman attending. And
10 they asked him to do certain things.
11 They looked over his work and asked
12 him to make certain corrections and do
13 certain additions, and he left the
14 service without doing that for the
15 day. And they reported him to
16 Dr. Peter Tishler who removed him from
17 the medical service and wouldn't let
18 him work there.

19 Q Did you look into that incident
20 yourself, Doctor?

21 A No.

22 Q And what led you to believe that it
23 was the gender of the complaining
24 parties that --

1 A Because I saw a pattern that the
2 female nurses complained, the failed
3 rotation at McLean had a woman
4 attending, Dr. Bolton, and he
5 certainly wouldn't listen to me, and
6 he would only listen when -- when
7 Dr. Swett or Dr. McCarley told him to
8 do something.

9 Q How many rotations did Rajendra
10 complete during his training at the
11 Brockton V.A.?

12 A Too numerous to count, I think. There
13 were whatever the required rotations
14 are. I mean I don't know what the
15 number is. I'd have to sit down and
16 count them up.

17 Q How many supervisors would he have had
18 during those rotations in total?

19 A He would have had at least one
20 preceptor for each rotation and
21 sometimes more.

22 Q Is it fair to say then that he is
23 likely to have had women supervisors
24 or preceptors in those rotations?

1 that was positive about Dr. Badgaiyan?

2 A Yes. There was one letter when he was
3 on Dr. Osser's ward where he was
4 working with a patient in a cognitive
5 behavioral mode and the patient found
6 that helpful. I'm talking about his
7 psychodynamic kind of. My questions
8 would be when he's working in the
9 psychodynamic mode.

10 Q Have there been doctors of Indian or
11 Pakistani origin in the program during
12 your tenure as the director of
13 training?

14 A Yes.

15 Q Do you recall --

16 A Approximately one-eighth to one-fourth
17 have been of those origins.

18 Q And of that number, do you know how
19 many are women and how many are men?

20 A I'd say it was probably fairly mixed,
21 maybe more men.

22 Q Dr. Badgaiyan came in not at the usual
23 start time in July, is that correct?

24 A That's correct.